BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

FILED
JUL 29 2008
LESLIE W. STEEN
CLERK

IN RE: THOMAS LEWIS TRAVIS, Respondent
Arkansas Bar ID#95029
CPC Docket No. 2008-004

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by J. Matilde Martinez and Misty Borkowski during August 2007. The information related to the conduct of Respondent following termination of his representation of Mr. Martinez and his family in certain Immigration matters.

On January 28, 2008, Respondent was served with a formal complaint, supported by affidavits from J. Matilde Martinez, Misty Borkowski, Attorney at Law and Denise Parks, Office Manager, Arkansas Supreme Court Clerk's Office. Also incorporated into the formal disciplinary complaint were a letter from Mr. Travis to Stark Ligon, Executive Director, Office of Professional Conduct and the Opinions of the Arkansas Supreme Court in the matters of *Arens v. Committee on Professional Conduct*, 307 Ark. 308 (1991) and *Cortinez v. Supreme Court Committee on Professional Conduct*, 332 Ark. 456 (1998). Respondent filed a timely response and the matter proceeded to ballot vote before Panel B of the Committee pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. Thereafter, Respondent requested a public de novo hearing pursuant to Section 11 of the Procedures. Win Trafford, Vice Chair, of Panel A chaired the hearing on July 18, 2008, based upon the recusal of Panel Chair Steven Shults, who was replaced on the Panel by Scott Stafford,

a member of Panel C of the Committee. Gwendolyn Hodge, a member of Panel A, was unable to attend the hearing due to another commitment. She was replaced for the hearing by Joe Polk, a member of Panel D of the Committee. The remaining members of Panel A were present for the hearing. The Office of Professional Conduct was represented by Nancie Givens. Mr. Travis represented himself.

The information before the Panel reflected that Thomas Lewis Travis, an attorney practicing in Little Rock, Arkansas, represented Mr. Martinez in various immigration matters beginning in 2001. During 2005, Mr. Travis' representation of Mr. Martinez, his family and his business ceased. Subsequently, Mr. Martinez requested that Mr. Travis provide he or his new counsel with the files maintained during representation. Mr. Travis failed to surrender the files.

Misty Borkowski, present counsel for Mr. Martinez, first asked for the files from Mr. Travis in a letter dated April 4, 2007. Mr. Travis did not respond. Ms. Borkowski called Mr. Travis on Mr. Martinez' behalf and received no response. On May 18, 2007, she, personally, went to Mr. Travis' office to hand-deliver a copy of the April 4, 2007, letter. During the visit on May 18, 2007, Mr. Travis informed Ms. Borkowski that it was his firm's policy to not provide clients' with their files. Specifically, as he testified in the hearing, Mr. Travis did not believe that he had any file of Mr. Martinez, but that the files belonged to Mr. Travis.

Mr. Travis did agree to provide Ms. Borkowski with an approval notice or final disposition notice from the various immigration matters for which Mr. Travis provided legal services to Mr. Martinez and his family. At the time, Mr. Travis' conduct was reported to the Office of Professional Conduct, he had not done so. Ms. Borkowski memorialized the meeting and conversation with Mr. Travis in a letter dated June 19, 2007. In the same correspondence,

Ms. Borkowski again demanded that Mr. Travis provide the files. Mr. Travis did not comply with the requests and demand.

The files which Mr. Travis has refused to deliver are those of J. Matilde Martinez family-based petitions involving Gregorio Martinez, Eva Zarate de Martinez, Francisca Rodriguez and Twin Brothers, Inc. employment based petitions involving Saloman Ramos, Jesus Martinez and Camerino Martinez. During the course of the hearing, Mr. Travis testified that he provided Mr. Martinez with copies of the petitions and various Orders at the time filed and therefore had nothing else to provide him or his counsel.

Prior to the filing of the formal disciplinary complaint, Mr. Travis was contacted by Stark Ligon, Executive Director, Office of Professional Conduct, in September 2007, seeking his explanation for not promptly delivering the files and property to his client or new counsel. In responding, Mr. Travis offered that is was his longstanding practice and policy that files in his law office are his property. He explained that they are his attorney work product and he does not release them. Further, Mr. Travis explained that if a new attorney of a past client seeks a copy of something specific from a file or general information, he usually complies with reasonable written requests.

Mr. Travis denied that any of the files involving Mr. Martinez contained anything to which the client was entitled. He stated that almost all of the contents in his files were created or obtained by Mr. Travis. He advised that he had met with Ms. Borkowski and as a courtesy told her he would provide her with approval and / or final disposition notices for each. The following month Mr. Travis provided a few documents from his file to Ms. Borkowski.

During the hearing, testimony was given that Mr. Travis represented Mr. Martinez in

numerous matters. Mr. Martinez paid Mr. Travis for the representation and there were no outstanding fees at the time of the hearing nor at the time the representation ended. Although Mr. Travis may have delivered to Mr. Martinez documents during the course of his representation, he had not done so following termination of his representation of Mr. Martinez.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, the testimony of J. Matilde Martinez, Misty Borkowski, and Tom Travis, other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct unanimously found:

1. That Mr. Travis' conduct violated Rule 1.16(d) when he failed to surrender papers and property to which Mr. Martinez is entitled since his representation of Mr. Martinez was terminated. Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering papers and property to which the client is entitled.

WHEREFORE, it is the unanimous decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that THOMAS LEWIS TRAVIS, Arkansas Bar ID#95029, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.A of the Procedures, Mr. Travis is assessed the costs of this proceeding in the amount of $350. Mr. Travis is also assessed a fine, pursuant to Section 18.B. of the Procedures, in the amount of $1,000. The fine and costs assessed herein, totaling $1,350, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme

Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By: _____
Wm Trafford, Vice-Chair, Panel A

Date: July 29, 2008